

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of WILLIAM E. PARKER and DEPARTMENT OF THE INTERIOR,  
FELSENTHAL NATIONAL WILDLIFE REFUGE, Closett, Ark.

*Docket No. 96-2109; Submitted on the Record;  
Issued September 16, 1998*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether appellant has met his burden of proof in establishing that he sustained a stroke due to factors of his federal employment.

The Board has duly reviewed the case on appeal and finds that appellant has not met his burden of proof in establishing that he sustained a stroke due to factors of his federal employment.

Appellant filed a claim on June 2, 1992 alleging that he sustained a stroke on May 21, 1992 due to pressure and stress. The Office of Workers' Compensation Programs denied his claim on August 19, 1992. Appellant requested an oral hearing and by decision dated November 15, 1993, the Office hearing representative accepted the factors alleged by appellant as work related, but denied appellant's claim due to a lack of rationalized medical opinion evidence. Appellant requested reconsideration on November 20, 1993, October 24, 1995 and February 9, 1996. The Office denied modification of its November 15, 1993 decision on December 8, 1993, November 15, 1995 and March 7, 1996, respectively.

To establish appellant's occupational disease claim that he has sustained a stroke as the result of an emotional condition developed in the performance of duty appellant must submit the following: (1) medical evidence establishing that he has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.<sup>1</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of

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<sup>1</sup> Donna Faye Cardwell, 41 ECAB 730, 741-42 (1990).

reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>2</sup>

In this case, the hearing representative accepted appellant's employment duties to which he attributed his emotional condition and stroke. Appellant and his supervisor confirmed that appellant was employed in a stressful position, in direct contact with the public, that he was overworked, lacked necessary equipment and staff, worked in extremes of temperature, performed heavy physical labor, operated heavy equipment and was subject to insects and snakes.

Following the hearing representative's decision, appellant submitted a factual statement alleging additional factors to which he attributed his emotional condition.

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or illness has some connection with the employment but nevertheless does not come within the concept of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is compensable. Disability is not compensable, however, when it results from factors such as an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment to hold a particular position.<sup>3</sup>

Appellant alleged that he was improperly investigated for trapping feral hogs and misuse of a government vehicle. As a general rule, an employee's emotional reaction to an administrative or personnel matter is not covered under the Federal Employees' Compensation Act. But error or abuse by the employing establishment in what would otherwise be an administrative or personnel matter, or evidence that the employing establishment acted unreasonably in the administration of a personnel matter, may afford coverage. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.<sup>4</sup> In this case, appellant has submitted no evidence that the employing establishment erred by conducting the investigation.

Appellant attributed his emotional condition to the denial of a promotion. The denial of a promotion is not a compensable factor of employment as it is administrative in nature and does not arise from the employee's duties. Rather, it is considered self-generated as it amounts to frustration over not being able to hold a particular position or to work in a particular environment.<sup>5</sup>

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<sup>2</sup> *Id.*

<sup>3</sup> *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

<sup>4</sup> *Martha L. Watson*, 46 ECAB 407 (1995).

<sup>5</sup> *Id.*, at 418.

Appellant alleged that he was harassed and discriminated against by coworkers and supervisors. He stated he was called a nonprofessional, that coworkers “took over” a work station that he created, that a coworker said nothing was wrong with him after hospitalization for stress, that all other employees received new vehicles, and that his supervisor stated that he was planing to remove structures that appellant had built. For harassment or discrimination to give rise to a compensable disability under the Act, there must be evidence that harassment or discrimination did, in fact, occur. Mere perceptions of harassment or discrimination are not compensable under the Act. Unsubstantiated allegations of harassment or discrimination are not determinative of whether such harassment or discrimination occurred. To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting his or her allegations with probative and reliable evidence.<sup>6</sup> Appellant has submitted no evidence supporting his allegations that he was harassed. Therefore, he has not established this factor of employment.

Appellant also reasserted that he was overworked, did not receive adequate equipment and that he had unpleasant contact with the public. These factors were supported by appellant’s supervisor and accepted as occurring in the performance of duty. His claim was denied by the Office based on the insufficiency of medical opinion evidence.

In support of his claim, appellant submitted a medical report dated August 3, 1993 from Dr. Barry Baskin, a physician Board-certified in physical medicine and rehabilitation, diagnosing cerebral vascular disease post left hemisphere stroke with residual right hemiparesis. Although he concluded that job-related stress could accelerate hypertension, Dr. Baskin did not opine that appellant’s stroke was due to stress. As Dr. Baskin did not attribute appellant’s stroke to the accepted factors of employment, his report is not sufficient to meet appellant’s burden of proof.

In a report dated October 20, 1993, Dr. John M. Hestir, a family practitioner, stated that appellant was under stress and that this stress contributed to appellant’s stroke. On November 3, 1994 Dr. Hestir noted appellant’s medical history and concluded that appellant was subjected to stress on the job and that this, in conjunction with appellant’s preexisting conditions, caused his disability. While these reports offer an opinion on the causal relationship between appellant’s stroke and his employment, Dr. Hestir did not provide an adequate history of injury, noting the accepted employment factors and explaining how these caused or contributed to appellant’s stroke.

In a report dated January 27, 1993, Dr. Hestir stated that appellant was promoted to a position for which he was not qualified and that the stress from this appointment caused hypertension. Appellant has not alleged that he was not qualified for the position that he held at the time of his stroke, rather that he was not provided with the necessary equipment and support to carry out this position without overwork and resultant stress. Therefore, this report is not based on a proper factual background and is not sufficient to meet appellant’s burden of proof. Further, Dr. Hestir provided no explanation of how stress in employment can cause or contribute to hypertension. For this reason, his stated conclusion is not well rationalized.

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<sup>6</sup> *Alice M. Washington*, 46 ECAB 382 (1994).

Dr. Aubrey C. Smith, a Board-certified psychiatrist, completed a report on November 17, 1994 and noted that appellant felt discrimination and condescension at the employing establishment and that he was embarrassed and humiliated by his supervisors. He diagnosed depression and stroke and concluded that appellant's conditions were related to his federal employment. This report is not sufficient to meet appellant's burden of proof as appellant did not submit sufficient factual evidence to establish harassment or discrimination by the employing establishment or his coworkers.

In a report dated November 1, 1994, Dr. Ed Kleitsch, a clinical psychologist, noted that appellant was overworked and that he was unable to obtain equipment and supplies. However, Dr. Kleitsch did not provide any opinion on causal relationship attributing appellant's stroke to these accepted factors of employment.

In a report dated February 12, 1996, Dr. Hestir stated that while appellant was driving a bulldozer in May 1992 appellant suffered a cerebral vascular accident. He stated, "There certainly is sufficient evidence that [appellant] was in a stressful situation. It is a note of record that he suffered a myocardial infarction while driving a bulldozer at work. With blockage of the left carotid artery, it is not advisable to drive a bulldozer. It can produce a breakage of the blockage causing an embolism."

This report is not sufficient to meet appellant's burden of proof. Although Dr. Hestir noted an accepted factor of employment, driving heavy equipment, he did not conclude that this factor caused or contributed to appellant's stroke. Instead he noted that it was possible that such work could cause an embolism, not that this is what occurred in appellant's case. The Board has held that the manifestation of a condition during a period of employment does not raise an inference of causal relation.<sup>7</sup> The issue of causal relationship requires rationalized medical opinion.

As appellant has failed to submit the necessary rationalized medical opinion evidence to establish that his stroke was caused or contributed to by accepted factors of employment, he failed to meet his burden of proof and the Office properly denied his claim.

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<sup>7</sup> See *William S. Wright*, 45 ECAB 498 (1994).

The decision of the Office of Workers' Compensation Programs dated March 7, 1996 and November 15, 1995 are hereby affirmed.

Dated, Washington, D.C.  
September 16, 1998

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member